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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/282,748	03/31/1999	HYONG S. KIM	FORE-39	9050
7590	12/04/2003		EXAMINER	
ANEL M SCHWARTZ ONE STERLING PLAZA SUITE 304 201 N CRAIG STREET PITTSBURGH, PA 15213			TRAN, PHUC H	
			ART UNIT	PAPER NUMBER
			2666	
			DATE MAILED: 12/04/2003	
				10

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/282,748	KIM ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	PHUC H TRAN	2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 September 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ .                                   |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
  - Regarding to claims 1, 3, 12, & 18, "no parameter specified" is in contradiction with the weight priorities, which teaches in the claims.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Ganmukhi et al. (U.S. Patent No. 5850399).
  - With respect to claims 1, 3-6, 9-11, 13, & 18, Ganmukhi teaches an ATM communication system (Fig. 1) comprising:

a source, which produces traffic for connections having known traffic characteristics (CBR, VBR, ABR) and unknown traffic characteristics (UBR) with no parameter specified, with weighted priorities (UBR +) and without weighted priorities (UBR);

a network on which traffic travels, the source connected to the network, the source sends the traffic having known traffic characteristics and unknown traffic characteristics onto the network (output 100);

and a destination, which is connected to the network and receives the traffic having known traffic characteristics and unknown traffic characteristics (e.g. terminal at receiving end).

- With respect to claim 2, Ganmukhi discloses a switch connected to the network, which switches the traffic from the source to the destination (Ganmukhi explicitly fails to teach the connection to the network, however it is inherently to person of ordinary skill in the art at the time of the invention was made to understand the communication system of Ganmukhi is connected to network for transferring information system, col. 4, line 17).

- With respect to claims 7, 16, & 22, Ganmukhi teaches the traffic known traffic characteristics is ABR, CBR, VBR or a combination of the same (Fig. 1).

- With respect to claims 8 & 20, Ganmukhi also discloses a signaling message that identifies to switches of the network the weight of each UBRw VC (call reception control circuit in Fig. 1).

- With respect to claims 12, 17, 19, 21, & 23-24, Ganmukhi teaches a switch for switching traffic on an ATM network from a source to a destination (Fig. 1) comprising:

a mechanism receives traffic for connections having unknown traffic characteristics (UBR in Fig. 1) with weighted priorities and without weighted priorities (UBR + & UBR);

a mechanism for transmitting the traffic for connections to the network, the transmitting mechanism connected to the receiving mechanism (it is inherently to person of ordinary skill in the art at the time of the invention to understand the system of Ganmukhi for transmitting data between terminals).

Ganmukhi also teaches a scheduler for scheduling when the connections having traffic with unknown characteristics having weighted priorities are to be transmitted to the network, the scheduler connected to the transmitting mechanism and the receiving mechanism by utilizing weighted rotational priority control (block 90 in Fig. 1).

- With respect to claims 14 & 15, Ganmukhi discloses including a memory for storing the connections, the memory connected to the receiving mechanism, the scheduler and the transmitting mechanism (e.g. buffer in Fig. 1).

#### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

- Applicant's arguments that UBR traffic class with no parameter specified teaching (in page 1, line 19). Examiner respectfully disagrees. The UBR with no parameter specified teaches in background invention (page 1, line 19), but in present invention, the UBR with weight priority or parameter specified teaches (page 19, line 7-17). Therefore the UBR with no parameter specified cannot be implement in the claims' invention.

- Applicant's argument that UBR+ is similar to ABR, therefore UBR+ has QoS class.

Examiner respectfully disagrees. The UBR+ is similar to ABR but UBR+ is not involving network flow control or with no flow control (col.4, lines 43-46).

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H TRAN whose telephone number is (703) 308-7471. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on (703) 308-5463. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 872-9314.

Phuc Tran  
Assistant Examiner  
Art Unit 2664

P.t  
November 28, 2003



DANG TON  
PRIMARY EXAMINER